

PROB. 12B  
(7/93)

**ORIGINAL**  
**United States District Court**

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 08 2006

at 2 o'clock and 5 min. PM  
SUE BEITIA, CLERK

for the

**DISTRICT OF HAWAII**

**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**

*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: TROY MANAOLE

Case Number: CR 04-00379-01

Name of Sentencing Judicial Officer: The Honorable Leslie E. Kobayashi  
U.S. Magistrate Judge

Date of Original Sentence: 1/12/2005

Original Offense: Knowingly and Forcibly Assaulting, Resisting, or Impeding Certain Officers or Employees, in violation of 18 U.S.C. § 111(a)(1).

Original Sentence: Twenty-four (24) months probation with the following special condition: 1) That the fine of \$1,000 is due immediately and any remaining balance be paid during the period of supervision on an installment basis according to the collection policy of the Probation Office but at a rate of not less than 10 percent of his monthly gross income.

Modified Sentence: On 3/11/2005, the subject's probation was modified to include the following special condition: 2) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office.

Modified Sentence: On 9/13/2005, the subject's probation was modified to include the following special condition: 3) That the defendant be placed in Mahoney Hale, a community corrections center, for not more than 90 days at the discretion and direction of the Probation Office. The defendant shall participate in the programs at Mahoney Hale to include employment, job training, or education

Type of Supervision: Probation

Date Supervision Commenced: 1/12/2005

**PETITIONING THE COURT**

[X] To modify the conditions of supervision as follows:

*General Condition*

*That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).*

**CAUSE**

As background information, on 1/27/2005, the subject reported to the Probation Office and the terms and conditions of supervision were read, reviewed, and explained by this officer. The subject acknowledged that he understood the conditions of supervision. As indicated on the cover sheet, the probation conditions were modified to include drug treatment and drug testing. The modification was a result of a urine specimen collected on 1/27/2005 that tested positive for marijuana.

On 9/13/2005, the Court modified the subject's conditions of supervision after he submitted a urine specimen on 3/8/2005 that tested positive for cocaine, admitted to marijuana use, refused to comply with drug testing on three (3) occasions, failed to comply with drug counseling, failed to submit a payment toward his fine for February 2005, failed to report to the Probation Office on 5/19/2005, and failed to answer truthfully to inquiries by the Probation Officer Assistant. As a result, the Court ordered that the subject reside in Mahoney Hale, a community corrections center, for ninety (90) days. The subject was released from Mahoney Hale on 12/23/2005.

On 1/22/2006, the subject refused to comply with drug testing at Hina Mauka. On 1/23/2006, the subject reported to the undersigned and stated that he went to Hina Mauka to submit a urine specimen and discovered that the testing department was closed. The subject further stated that since he missed his urine test at Hina Mauka, he went to Straub on 1/22/2006 and paid for his own drug test. On 1/24/2006, the undersigned received the test results. According to the laboratory report from Straub, his urine specimen tested negative for any illicit substances.

Because the subject took it upon himself to get a drug test at Straub, our office is not sanctioning the subject for his failure to report to Hina Mauka for drug testing. To his credit, the subject has maintained full time employment and paid his fine in full. The subject has completed his substance abuse counseling sessions at Hina Mauka.

In light of U.S. vs. Stephens, we are requesting that the Court modify the mandatory drug testing condition (General Condition) to authorize and allow random drug testing to continue for the duration of the subject's supervision term. Based on the subject's history of marijuana and cocaine use, we feel that it is necessary that the subject continue with random drug testing in order to monitor his compliance and adjustment.

Attached is a signed Waiver of Hearing to Modify Conditions of Probation. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of probation. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



ALYSA K. MAKAHANALOA  
U.S. Probation Officer Assistant

Approved by:



TIMOTHY M. JENKINS  
Supervising U.S. Probation Officer

Date: 2/7/2006

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THE COURT ORDERS:

☒ The Modification of Conditions as Noted Above  
☐ Other

  
\_\_\_\_\_  
KEVIN S.C. CHANG  
U.S. Magistrate Judge

FEB 07 2006

\_\_\_\_\_  
Date

PROB 49  
(5/96)

## United States District Court

District of Hawaii

### Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.


I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

[ X ] To modify the conditions of supervision as follows:

*General Condition*

*That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).*

Witness

  
ALYSA K. MAKAHANALOA  
U.S. Probation Officer Assistant

Signed:

  
TROY MANAOLE  
Probationer

1/23/06  
Date